

FLORIDA CONTESTED ELECTION.

DECEMBER 14, 1842.

Laid upon the table.

ST. AUGUSTINE, November 24, 1842.

SIR: I herewith submit, through you, to the House of Representatives, for such disposal or reference as they please, a correspondence between Moses E. Levy and myself, made evidence in the contested election or seat of David Levy, on the part of the remonstrants; also, the renewed deposition of J. R. Evertson, in the same contested election.

I have the honor to be, sir, respectfully yours, &c.

P. S. SMITH,

Attorney for and one of the Remonstrants.

HON. JOHN WHITE,

Speaker of the House of Representatives.

ST. AUGUSTINE, 13th of 11th month, 1842.

DEAR SIR: In your note of the 8th instant you desire me to state the substance of my deposition given last to David Levy, in the language it was given, as near as I recollect; and also to state my intention of making the statement, and whether I intended to convey any reflection in it on your integrity and truth, and entertained a fear that the testimony may have been drawn artfully, and more than I intended to convey.

To this I will say that the irritating subject of David Levy is becoming troublesome to me beyond measure. Facts to be drawn from impressions often made on associations foreign to the facts, instead of recollections, have given a fruitful field, under the heat of party spirit, to inferences drawn from unguarded expressions made to one person, upon previous understanding between them, have been testified to by the hearers as acknowledged facts, stated by me, &c.

So much testimony taken, so much said to me about it, that my brain may be said to be laboring under the influence of phantoms, which impressions of twenty years back, many of which may have been originally false, with surmises and probabilities, give birth to. I confess, sir, that what you thought I said, without foundation, I may now with truth assert, namely: that the subject begins to make me unhappy indeed—for, mark, sir, you suspect David Levy of having drawn the statement artfully. This I mean not to contradict; it is possible; this is the practice of all; it cannot be otherwise in a state of social compact, where every one avowedly pulls for

himself. But David Levy will be apt to say the same of yourself, and I believe the accusation of one, I must believe that of the other, and I am the victim of the strife.

You ask that which is out of my power to do, namely : to note to you the substance of the deposition I gave David Levy, in the language it was given. The subject is far from being interesting to me to stimulate the faculty of memory to the extent you demand, of one whose mind is concentrated in one single point, and all that is foreign to it passes by as the idle wind, that agitates straws.

The deposition, however, went to state the intention of purchasing lands in this, to me unhappy, country ; that I spent the winter and spring after the purchase at the North ; that I left Philadelphia with two persons early in June, 1821, to establish two or three plantations in Florida, one of them my own ; that the passage of my friends from that place to Charleston, to which place I journeyed by land, was very long and tedious, as was that from Charleston to this place ; that, for what I can tell *now*, the impression on my mind of "but for the calms I might have been time enough to have allowed me to be present at the exchange of flags," might have reverted to the whole of the passage from Philadelphia to this place ; that I vividly recollect *now*, that when first visited by the pilots at the bar, on our arrival at this place, I was agreeably surprised at the captain speaking the Spanish language so well, and greeted him as an old acquaintance—circumstances which will go to show that the impression of the vessel being Spanish must have arisen from something else than the faint impression of the fact ; that the name Solana, so very Spanish, would have led me to speak to him in that language on the passage, and have naturally known that he was a Floridian, and obtain information of the much-desired country I was to domiciliate in. That the Florida could not have been the vessel I came in, from the further circumstance of General Smith's telling me that she stopped at Savannah ; that she had negroes on board, cleared from Charleston. Nothing of this I recollect.

I further stated, that some time back you came to my house and read to me part of the report of the committee ; that I said, what I have always asserted, that I could not have been in *this* country on the 17th July ; that you then replied, "Why could you not testify to this, then?" I said, in answer, that this conclusion was drawn from the petition, &c., to Mr. Worthington, which conclusion you yourself, or any one else, may do as well as myself. My testimony ought to be confined to recollection ; that, on your reiterating the argument, I replied to it and said, that were I to do this, it would make me unhappy for life.

With this, as far as I recollect materially, &c., and with strictures such as I proposed in this, my answer to you, the testimony terminated.

As regards the manner of making this testimony, it is a question that David Levy can answer, not me. The one he wrote, embracing the points he wanted me to testify to, did not mainly picture the state of my mind. I then wrote my thoughts, and he made one from them. If he used any artful language, I cannot tell ; I am a bad subject to detect this kind of manœuvres.

From this you will see that there were no reflections made to your injury, but that I confined myself to facts and state of my mind.

In justice to David Levy, I will say that when he presented me with the engrossed draught, I said that he was more lenient than I would have been ; to

which he answered, that he did not wish to interrupt the friendship existing between us. My observation was made because your testimony, given but a day before the one I gave you, about the 26th of April last, was uncalled for, and ought to have been withdrawn. My readiness to answer any question, as expressed at Mr. P.'s office, was said to you directly after breakfast, on mail day, and easily might have been withdrawn; and even if it was too late, you might, in recanting your opinion at the foot of my testimony of the same day, by a shorter cut, have withdrawn the whole of your testimony made the previous day. But I make allowances when I see the unhappy irritation and prejudiced minds party politicians are assuming in this country. Notwithstanding, in separating the character of the man from the stumbling blocks in his way, I will say that the esteem for your good qualities I entertained before this and other testimonies taken on the same day, still exists, which, on reflection, I know you would not have had any share in them.

And now for a counter request of mine, I want you to state this fact on oath, that I may use it as I please :

That whenever I asserted to you, that I could not have been in Florida on the 17th day of July, 1821, was not a fact of recollection, but as an induction from the papers presented to Worthington, in 1822.

With esteem, your well wisher, &c.

M. E. LEVY.

PETER S. SMITH, Esq.

NOTE.—I also said that my letter to Warburg, saying that I will join the colonization established North, it was to depend on contingencies very remote, and to which I would have sacrificed my plan of establishing it in this country.

M. E. L.

TERRITORY OF FLORIDA, *St. John's county, city of St. Augustine :*

Personally appeared before me, Peter S. Smith, to me well known, who, on being sworn, on his oath, saith : That the foregoing letter, of five pages, is in the handwriting of Moses E. Levy, to him well known ; and that this deponent is further acquainted with the handwriting of the said Levy, having seen him write, and having corresponded with him frequently by letter ; and that the within letter from said Levy was addressed to this deponent, and by this deponent received on the 13th November, 1842.

PETER S. SMITH.

Sworn to and subscribed before me, at the city of St. Augustine, this 24th day of November, A. D. 1842.

JOHN C. CLELAND,

Justice of the Peace for St. John's County.

ST. AUGUSTINE, November 21, 1842.

DEAR SIR : I am favored with yours of the 13th, in reply to mine of the 8th instant, in which you request me to state the fact, on oath, that, whenever you asserted to me that you could not have been in Florida on the

17th July, 1821, it was not a fact of recollection, but an *induction* from the papers presented to Worthington, in 1822.

Before I reply to this, allow me to make some remarks, growing out of your extended and discursive communication of the 13th, involving the subject-matter of your late deposition, drawn up and prepared by David Levy, for you to swear to, during my absence from the Territory. You call this alienage case of David Levy an irritating subject to you, and becoming troublesome beyond measure; and in reply to my apprehension (in my note to you of the 8th) that your deposition may have been drawn artfully, and to mean more than you intended to convey, you say, in justice to David Levy, that you said to him on his presenting you with the engrossed draught of your late deposition, he had been more lenient (towards *me*, meaning) than *you* would have been; and to which you state he answered he did not wish to interrupt the friendship existing between us, (meaning between you, sir, and myself.) Now, sir, whether or not your deposition, prepared by David Levy, should turn out to be artfully drawn, and beyond your meaning, (I regret that you retained no copy of it,) I have but to say I have no confidence in David Levy's motives. He has made gross misrepresentations of my character and sentiments, in a deliberative assembly, and on a subject of vital interest in a Southern community and to Southern men. He has since endeavored to deny it to me through his friends, but the truth of it has been vouched by men of integrity and truth, who were present in the convention where he made this most base and unprincipled attack, beyond the possibility of doubt. But this is immaterial to the issue between him and the country, which is, *is he an alien or a citizen?* But to the point: Immediately on the election of David Levy to the constitution convention, you spoke freely, to your friends here, of *his* and *your own* disqualification—that is, of your not being citizens of the United States; and you drew up written memorandums, going to prove the date and circumstances of David Levy's foreign birth; and you have, on several occasions since, freely testified on oath to facts and circumstances that, in my judgment, are conclusive proof of his alienage. If the subject has been irritating, you must at the same time admit that, of necessity, you have been, from the commencement, a prominent witness, both in the testimony taken on fair legal notice, where both parties could be represented, and in the *ex parte* testimony procured and taken at the instance of David Levy, where the remonstrants never having had notice of your contemplated examination, were unrepresented, and deprived of the right and privilege of *cross-examining* you. I mean not, sir, to reflect on *you* for this *ex parte* movement, but if *you* have been made "the victim of the strife," as you choose to term it, has it not arisen from your having been called on to repeat, under oath, statements voluntarily made by you in this community before *any* action was had by the remonstrants in contesting the seat of David Levy in the House of Representatives? And it must be recollected that the remonstrants, citizens of the United States, and claiming to be represented in Congress *by a citizen*, have felt it their right and their duty to elicit the truth in evidence, by every fair and legal means in their power.

I will reply here to your request. In most of your conversations with me, in answer to the question, "Were you in Florida, or in the waters thereof, on the 17th July, 1821?" you would reply, that you could not answer from any other means, or in any other way, than by referring to

your petition to Worthington, in much the same language that you answered the first of a series of interrogatories, sworn to by you before J. C. Cleland, justice of the peace, on the 26th April, 1842, at St. Augustine, and to which I refer you. In other conversations, where the expressions were more brief, you would state, in answer to the question, "Were you in Florida on the 17th July, 1821?" that you were *not* in Florida, but believed you were in the city of Charleston, South Carolina, on that day, as I deposed (and of course there is no necessity for another deposition on this point from me) on the 25th day of April, 1842, at St. Augustine, before J. C. Cleland, justice of the peace; (see printed report of the House of Representatives, No. 450;) and as J. R. Everton also deposed on the same day, before the same officer, without the qualification of your having used the word "believe." Which was the more accurate in our recollection of your precise expression, Mr. Everton or myself, I cannot pretend to say, having already testified that, in *my* recollection, you used word "believe;" neither do I conceive it very material, since the absolute *record* evidence on this point, since derived from the custom-house of Charleston, South Carolina, is, that the schooner "Florida" did not clear from that port for this until the 18th day of July, 1821. And, while upon this point, suffer me to refresh your memory in respect to some things about this same schooner "Florida," that seem to have escaped your recollection in giving me the *substance* of your late deposition, as prepared by David Levy. First, however, let me premise, I am happy to perceive that, in this *substance*, you state that your journey from Philadelphia to Charleston, on your way to Florida, was by land, and very long and tedious; and that, for what you can tell *now*, the impression on your mind, in regard to your previous statement in testimony, that but for the calms you might have been here time enough to have allowed of your having been here at the exchange of flags, might have reverted to *the whole of your passage from Philadelphia to St. Augustine*. This same statement of the causes and circumstances of this delay as having occurred on the route between Philadelphia and Charleston, I have also heard you make on previous occasions, in the presence of third persons—an "induction" of your own mind—and now, as you say, put in the form of testimony, in the deposition prepared by David Levy.

In your *ex parte* examination, at the instance of David Levy, in New York, on the 16th November, 1841, before F. A. Tallmadge, recorder, in your answer to the ninth interrogatory, of what vessel you went in from Charleston to St. Augustine, you stated, "I believe she was under Spanish colors;" and on your arrival at St. Augustine, a short time after this your last New York deposition, although *this fact*, or even the fact that you had been so examined in New York, was *then* entirely unknown to the remonstrants. In your *first* interview with me, at my office, as testified to vessels that had arrived coastwise from Charleston at this port, in July, 1821, by J. R. Everton and myself, on my exhibiting to you a memorandum of the which memorandum had in it (as taken from *this* custom-house entries) the arrival of the schooner "Florida," Solana, master, on the 25th day of July, 1821, you promptly stated, selecting from the list of vessels, and pointing your finger to the name, that "the Florida" was the vessel in which you came to Florida, or in which you arrived in Florida. And again, in one of your subsequent conversations in my office, in reply to a question asked you by D. R. Dunham, you said that the vessel in which you came to Florida, was under *Spanish colors*, you believed, and that the master's name

was not an *English* name, but her master was a native or inhabitant of St. Augustine, and his name a *Spanish* one. This appears in the deposition of D. R. Dunham and myself, sworn to the 23d May, 1842, before J. C. Cleland, justice of the peace ; (see report 450, &c. ;) and, also, in confirmation, see *your own* statement, in answer to the sixth interrogatory, as sworn by you before J. C. Cleland, justice of the peace, on the 26th April, at St. Augustine, and appended to report 450. Your statement to Judge Dunham and myself, as to the Spanish character of the vessel and captain, was the suggestion of your own mind, founded upon Mr. Dunham's inquiry of whether you might not have come in the schooner "Benjamin," William Brown, master—neither the name of the "Florida," nor of her master, Solana, having been mentioned by either Mr. Dunham or myself in that conversation. I will here also correct one or two of the incidents contained in the *substance* of your late deposition, as prepared by David Levy. You say "the Florida could not have been the vessel I came in, from the further circumstance of General Smith's telling me she stopped at Savannah, and that she had negroes on board, &c. ; nothing of this I recollect." I answer, that my recollection is very different from yours of the manner of my statement. Thus, in speaking of the vessel, without naming any one, in which you came from Charleston, as having touched at Savannah, it was in direct connexion with and allusion to the testimony of Mr. E. Wallen on this point, and not a positive statement of my own ; that the "Florida" touched there or not I never knew. Again: as to negroes on board the vessel in which you came to Florida, when I asked you the question, "Were there negroes on board the vessel you came in?" as *I* recollect, you answered, "there were negroes on board, I think ; but whether they were hands on board, or passengers, I cannot say." And this reply of yours was in the presence of another gentleman, and, should you desire it, that gentleman is ready to verify this statement. You further reflect on my not having recalled that part of my deposition of 25th April last, wherein I state that you refused to answer, &c. I did recall it by letter, and my retraction *only* and *simply* on the point of your refusal to answer on a previous occasion is published in report 450, at the foot of your answers to the interrogatories sworn to by you on the 26th April last.

Again: in speaking of the meaning or object of your late deposition, as got up and prepared by David Levy, for your oath and signature, you say, "if *he* used any artful language, I cannot tell ; I am a bad subject to detect this kind of manœuvres." You not having a copy of your deposition, I cannot say, as I have already remarked, *if* the language or meaning is artfully expressed and conveyed ; but this much I do say, if your deposition should prove to be artfully expressed, it will not be the first time in the history of this case where "art" has been resorted to ; as, for instance, in my conversations with you in March last, in the presence of other gentlemen, (see my deposition of 25th April last, annexed to report 450 of the House of Representatives,) you admitted that you were not in Florida, or in its waters, on the 17th July, 1821 ; and you assigned as a reason, that had you been *here*, there would have been no necessity for the "artful language" made use of in your earliest petition on this subject, representing your non-compliance "with the letter," yet in "the spirit," &c. And you held similar sentiments in your New York deposition, of September, 1841, taken on the part of the remonstrants, upon due notice to David Levy, who was present by his counsel. (See report 450 of House of Representatives.)

Perhaps it was to this early "manœuvre" that you more particularly refer, when you say you have been made the "victim of the strife." But, my good sir, while you may thus have been made the victim of artful misrepresentation, you are not a citizen, and you know it, and feel it; and, in justice to you, you always have said, as far as I know, from the first to the last, that you were not then, and that you are not now, a citizen of the United States; you have told me and other gentlemen so within a few days, in your own emphatic mode of expression.

Speaking of "inductions," in your communication of the 13th, I have no feeling of unkindness in this my review. In April last, it having been then recently rumored here that you had made an *ex parte* deposition in New York, I asked you if it were possible that you had made oath that you were in Florida, or in the waters of Florida, on the 17th day of July, 1821; and you replied that you had *not*, and that you were *not* in Florida, or in the waters of Florida, on the 17th, and that you had *never* said that you were, neither had you ever believed that you were. (See my deposition, report 450, sworn April 25, 1842, before Cleland, justice of the peace.) Again: I call your attention to the fact, that, in a conversation between you and one of our most respectable and intelligent citizens, in April last, not any one who has yet testified in this case of alienage, you stated that you were surprised that the committee of Congress, or any one else, could infer, from any part of your testimony, that you were in Florida, or in the waters of Florida, on the 17th July, 1821; that you were strongly of the belief that the name of the vessel you first came in to Florida, from Charleston, was the "Florida;" that you could not say you recollected the name of the captain to be Solana, but it might have been; he was, you thought, a native or a resident of St. Augustine; and that the schooner was a small pilot-boat schooner.

I have been careful to call your attention to these your statements on different occasions, in the presence of different persons, to convince you that you have not unfrequently been much more distinct and explicit in your recollections on this subject than you appear to have been on the occasion of the late deposition, prepared for you by David Levy.

One word more, as to the vessel in which you first arrived in Florida from Charleston. If you did not arrive in the "Florida," it might be well, were it possible, for you to furbish up your recollection, and state in what vessel you did come. My own impression, as derived from the testimony in the case, is, that if you did not arrive here in the "Florida," which cleared from Charleston on the 18th July, 1821, and arrived here on the 25th of the same month, you could *not* have arrived here in a vessel from Charleston until *after* that date; and if you will examine the collector's lists of clearances and arrivals for the month of July, 1821, annexed to report 450 of the House of Representatives, I do not see how you can avoid coming to this conclusion; at least, such is my judgment on the evidence. The schooner Benjamin, the *first* vessel that arrived here from Charleston in July, 1821, arrived on the 24th day of July, but she had a master with an *English* name, and had a house frame for her cargo, and you told Judge Dunham and myself that the vessel you came in had neither a house frame nor lumber on board. (See report House of Representatives 450, Smith and Dunham's deposition, on the 23d May, 1842, before Cleland, justice of the peace.) And, furthermore, the "Benjamin" was not "under Spanish colors," neither was her master a native, nor did the vessel hail from this

port. The schooner Protector arrived here on the 31st of July, 1821. It is needless to say that neither you, nor the party more immediately interested, has claimed that you arrived in either the Benjamin, on the 24th, or in the Protector, on the 31st July, 1821. These two named vessels and the "Florida," making three vessels, were *all* that arrived here, from Charleston, in the month of July, 1821. The Protector was not "under Spanish colors." It might be added, that it appears, from the certificate of the collector of Charleston, that the sloop "Wasp" and brig "Neptune's Barge" cleared from Charleston for this port on the 25th and 27th July, but did not arrive here during that month.

Please excuse this rough draught; my engagements are such, in preparations to leave home, I have not the time to write it over.

I remain, respectfully, your friend,

P. S. SMITH.

M. E. LEVY, Esq.

P. S. In answer to the "note" at the foot of yours of the 13th instant, I know nothing of the subject of your letter to Warburg, except that you stated to me, when I read it to you in the printed report 450, that you wondered where or how the committee got hold of that letter.

TERRITORY OF FLORIDA, *county of St. John's, city of St. Augustine* :

P. S. Smith, of St. Augustine, to me well known, being duly sworn, on his oath, saith: That the foregoing letter is a compared copy of the original letter by this deponent, written on the 21st November, 1842, and placed in the hands of Moses E. Levy, to whom it was addressed and directed, on the 22d instant, in answer to said Levy's letter to this deponent of the 13th instant.

P. S. SMITH.

Sworn to and subscribed before me, at the city of St. Augustine, this 24th day of November, A. D. 1842.

JOHN C. CLELAND,

Justice of the Peace for the County of St. John's.

TERRITORY OF FLORIDA, *county of St. John's, city of St. Augustine* :

John R. Evertson, of said city, at the particular request of Moses E. Levy, being duly sworn, doth depose and say, (first hereby confirming, in all respects, the affidavit made by him on the 25th April, 1842, before J. C. Cleland, justice of the peace, which is appended to the House report 450, Contested Elections :) That the conversation alluded to in that affidavit was not addressed to this deponent, but to General P. S. Smith. This deponent also, at the request of Mr. Levy, would state that, during the conversation, allusion was made to his petition to Governor Worthington, and Mr. Levy inquired of General Smith if the signature to it was in a bold round hand; if so, it must be in Forbes's handwriting, and he did not sign it. This deponent, having heard much on the subject, paid particular at-

tention to the conversation, as presented in former affidavit, and cannot be mistaken in its tenor. And further this deponent saith not.

J. R. EVERTSON.

Sworn to before me, this 16th day of November, A. D. 1842.

JOHN C. CLELAND,

Justice of the Peace.

DECEMBER 13, 1842.

Motion to refer to Committee of Elections pending—adjourned.

DECEMBER 14, 1842.

Motion to refer to Committee of Elections negatived, and then laid upon the table.

ST. AUGUSTINE December 3, 1842.

SIR: The remonstrants against the right of David Levy to a seat in Congress herewith transmit, as bearing on this case, the deposition of B. A. Putnam, Esq., of this city, for such reference as the House of Representatives may make of it.

Respectfully, &c., yours,

P. S. SMITH,

Attorney for and one of the Remonstrants.

HON. JOHN WHITE,

Speaker of the House of Representatives.

Deposition of Benjamin A. Putnam.

Personally appeared Benjamin A. Putnam, of the city of St. Augustine, Territory of Florida, and, being sworn, says, that in the spring of the present year, and, as well as deponent recollects, some time in April last, and after the report of a part of the committee of the House of Representatives in Congress, to which committee had been referred the case of David Levy, whose seat in Congress was contested for alienage, favorable to said David Levy, this deponent met Moses E. Levy, Esq., the father of said David Levy, on the public square in the city of St. Augustine; and the said Moses E. Levy remarked to deponent, that the committee, it seemed, had decided that David Levy was a citizen. Deponent replied, so it seems, and of course have decided that you were in Florida on the 17th day of July, 1821; that the said Moses E. Levy replied, that he could not see how the committee, or any other person, could come to that conclusion, from any testimony he had given. Deponent then asked the said Moses E. Levy, if he could recollect the name of the vessel in which he came to Florida in 1821; he said he could not, but that it was a fine small pilot-boat schooner; and was either a Spanish vessel, or commanded by a Spaniard, and native of Florida. Deponent mentioned to him the name of Walton; he said he did not think that was the name; that the person was a thin spare man. Deponent then mentioned the name of

Ximenés to him; he replied, that he thought it was some other name. After some further conversation on the subject, deponent and the said Moses E. Levy separated. Deponent crossed the public square, and entered the market-house on the opposite side, where he saw Rafael D. Fentané, Esq.; and deponent asked him if he knew any native of St. Augustine, who, in 1821, commanded a small pilot-boat schooner, running between Charleston and St. Augustine; he replied, that Manuel Solana commanded the pilot-boat schooner, called the Florida, that run between Charleston and St. Augustine, in 1821. Deponent thinks he afterwards reported this conversation to the said Moses E. Levy, but will not be positive of that. Deponent further says, that either in his first conversation, hereinbefore stated, or in a subsequent conversation on this subject with the said Moses E. Levy, he (the said Moses E. Levy) stated that General Lallemande and another French gentleman, a resident of Philadelphia, and a dancing master, well known there, were fellow passengers in that vessel with him when he came to Florida in 1821.

BENJ. A. PUTNAM.

Sworn to before me, at the city of St. Augustine, this 2d day of December, A. D. 1842.

JOHN C. CLELAND,
Justice of the Peace.

DECEMBER 14, 1842.

Laid upon the table.

Deposition of Moses E. Levy.

For the purpose of making more clear the testimony I have heretofore given, from time to time, in relation to my first arrival in Florida, and the intention with which I came, I hereby state—

That at the time I presented my first petition to Governor Worthington, and in all my subsequent depositions, the reference of my mind, in speaking of the day of my arrival, has been to the day on which the exchange of flags took place at St. Augustine. Whenever, therefore, I have spoken of “the cession,” “the change of flags,” or “the 17th July,” it has been in the supposition that they were identical. It never occurred to me to notice, or, if noticed, to mark, until lately, that it was on the 10th instead of the 17th July that the event dated. This is what I intended to convey in my deposition of April 26, 1842.

My purchase of lands in Florida was with the view of colonizing them. I left Havana in the fall of 1820, for Charleston, when I learned that the treaty with Spain and this country was ratified, and the proposed project from that time occupied my individual mind. I spent the winter and spring in Norfolk, New York, and Philadelphia, engaged in the object which filled my mind—of colonizing. When I left, early in or the middle of June, for Florida, I had made an arrangement with some gentlemen there for the establishment of two or three sugar plantations upon my lands, one

of them my own, and carried with me from Philadelphia a person to manage my place. I went to Charleston by land, these gentlemen following by sea. Their voyage was protracted very much by calms and contrary winds, which caused my detention for a long time at Charleston, awaiting their arrival; and to this circumstance is owing, in addition to my long passage from Charleston, my delay in reaching St. Augustine. The possibility of my abandoning my residence in Florida, and selling out there, (referred to in my letter to Mr. Warburg,) depended upon a contingency which I had looked to as possible in the future, and in the event of which I was willing to sacrifice my choice of residence, and the flattering prospects my property in Florida held out to me. But it was a mere possibility, which did not affect the intentions I was then pursuing in relation to my settlement in Florida.

At Charleston I took passage for St. Augustine on board of a schooner, heretofore described, as far as such an indifferent circumstance could impress itself upon my mind. We had a very long and tedious passage. The vessel remained at anchor outside of the port—how long, could not recollect—certainly a day; and as I have been told, and think it true, I landed in the pilot boat, leaving the vessel at anchor. We found that the change of flags had taken place, of course to our regret. The time I stopped at St. Augustine was hurriedly occupied in preparing my way to the proposed undertaking; and, when I left, I committed my business to Mr. Forbes, as my agent.

The repeated depositions I have given on the subject, so dependent on narrowed grounds, as to the day of arrival, chains of acts and intentions, and withall taken under the influence of party feeling and heated minds, in which the very expressions are weighed, could not but confuse a mind that did not attach any importance to the inquiries sought to be made, so that false imageries, probabilities, and conjectures, start in the mind, confounding truth with phantoms.

General Smith asked me one day if I came in any one of the vessels, the list of which he held in his hand. On seeing the name of the "Florida," it struck me it was the one, and possibly I might have said so, since he swore to it; but, when he mentioned the name of the "captain," I said the name did not strike me as the right one, or that in substance. I am not certain whether it was then or afterwards he asked me if there were any negroes on board, because some negroes were cleared by her. No, said I, there were none.

In addition to the reasons which impressed my mind with doubt, at the time of my last deposition, as to whether it was the vessel I came in, I think it proper to state the following additional reasons against the likelihood of her being the one. I am informed, since that deposition, that the "Florida" did not clear at Charleston until the 18th; whereas, if I was on my way on the 17th from Charleston to this place, I could not have been in her. Again: the "Florida" stopped at Savannah, as General Smith said to me, whereas I came direct. Again: and to my mind the most striking is what I now remember, on reflection, in relation to the captain. I remember that not a word of Spanish was spoken on board the vessel with the captain; and I have a very vivid impression of the surprise with which I heard him speak Spanish to the pilots when we arrived. Now, if his name had been *Solana*, I would have recognised it at once as a Spanish name, and have addressed him in Spanish, in which I was fluent

and most accustomed to speak for some years before. Besides, had I supposed he was a "Floridian," and the vessel a "Florida vessel," I would naturally have sought information from him in respect to the country was going to, and upon which all my hopes and interests centered; and subjects connected with Florida would naturally have been a fruitful and interesting source of intercourse with the captain on the passage; while in fact, as I am impressed, we never had any conversation about Florida and I never knew he could speak the Spanish language till we arrived. The same reason makes me believe, now, on reflection, that she could not have been under Spanish colors, as on another occasion I suspected, because, if she had been under Spanish colors, that circumstance would have led me to expect the Spanish language to be spoken on board. The captain I came with was a man of about thirty-five or forty years of age and spoke the English language with fluency and accuracy. I staid at Livingston's hotel while here.

General Smith, some months back, came to my house and read to me part of the report of the committee; and I told him it was impossible I could have been at St. Augustine on the 17th July, for, if I had, to have stated so in the petition would have been enough. He asked me what objections I had to testify to this fact. No, I said; this is merely an inference drawn from a written document which any one may make as well as myself; but testimony should be from the recollection of facts. And when he reargued the fact, I said, were I to do this it would make me unhappy for life. The next day I met him at Mr. Putnam's, and he told me he had just sent an affidavit, saying that I would not give any more testimony, because it would make me unhappy. No, said I, promptly, I am ready to give as many testimonies as may be required; and related to Mr. Putnam the state of the case, as above related, saying at the same time that I would consider it my duty to send on a counter affidavit, if he did not withdraw it; and then offered to give any further testimony, if required. He, at his office, propounded the questions, and I answered them as my recollection served me.

The great length of time which has elapsed, and the unimportant nature of the incidents which form the subject of the inquiries made of me at this date, necessarily render the testimony I give rather the result of impressions now suddenly arising, and often mistrusted, than of positive recollection of facts. My mind was engrossed with subjects at the period of my first arrival here, which caused unimportant and minor events to pass without notice from me. It might be that the impression I have as to my being on my way here on the day of exchange includes the whole voyage from Philadelphia; for Charleston was only a stage in my journey from Philadelphia to Florida.

M. E. LEVY.

Affirmed to and subscribed before me, the following words, having first been interlined, to wit: On the first page, "or the middle of," "there;" on the third page, "to the inquiries;" on the fourth page, "*to the pilots*," "I supposed he was," "as I am impressed;" on the sixth page, "if he did not withdraw it," "and often mistrusted." Witness my hand, this 31st day of October, 1842.

JAMES M. GOULD, J. P.,

St. John's County.

Deposition of Mathew Solana.

Before me personally came, this first day of November, Mathew Solana, Esq., and made oath that he is the brother of Manuel Solana, now deceased, who commanded the schooner Florida for a short time in 1821; that the said Captain Solana was at that time not more than nineteen or twenty years of age; that he was a native of St. Augustine, and spoke the Spanish altogether as his mother tongue; that he also spoke English, but it was in a broken and inaccurate manner—such English as could be learned in a Spanish town, where it was seldom used, and was never taught at the schools.

MATHEW SOLANA.

Subscribed and sworn to before me, this first day of November, 1842.

JAMES M. GOULD, *J. P.*,

St. John's County.

